



# GROUNDWATER LAW CONFERENCE

## San Francisco, California



**Thursday, May 18, 2017**

**UC Hastings-College of Law, 198 McAllister Street, San Francisco, CA 94102**

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### An American Ground Water Trust Conference

The American Ground Water Trust's annual California Groundwater Law Conference is back in San Francisco for 2017. Attendees will hear from a cadre of high caliber presenters and will gain insight about legal strategies regarding aquifer contamination litigation and hear perspectives about solving legal issues related to California's water management challenges. This annual update on California's groundwater law is typically attended by attorneys, water utility and water district staff, City/County staff and Commissioners, State and Federal regulators, growers, irrigation districts, water engineers and consultants, academics, environmental NGOs and those interested in legal issues affecting California's groundwater-rights, management, ownership, protection and use.

### CONFERENCE AGENDA

8:30 – 8:40 INTRODUCTION: CONFERENCE OBJECTIVES  
Andrew Stone, Executive Director, American Ground Water Trust, Concord, NH

8:40 – 9:10 CURRENT GROUNDWATER LAW CONTROVERSIES IN CALIFORNIA  
David Owen, Professor of Law, University of California, Hastings College of Law, San Francisco, CA

#### 9:10 – 10:30 Session 1

GROUNDWATER SUSTAINABILITY PLANS: POTENTIAL CHALLENGES AND SOLUTIONS  
Session moderator - Deb Kollars, Attorney, Best Best & Krieger, Sacramento, CA

#### Session description and background:

*This Session describes key areas where legal conflicts could arise in the preparation and implementation of GSPs, including potential water rights conflicts. Decision support modeling naturally supports a collaborative approach to determine a sustainable management plan for the basin. It supports a transparent, stakeholder-driven process that can clarify various financial and water usage tradeoffs under extraction regulation and drive solutions to help avoid legal and institutional conflicts that might otherwise dominate decision-making and send the basin to adjudication.*

POTENTIAL LEGAL CHALLENGES OF GSPs, INCLUDING WATER RIGHTS CONFLICTS  
Deb Kollars, Attorney, Best Best & Krieger, Sacramento, CA

GSPs AND CONFLICTING STAKEHOLDER INTERESTS  
John S. Currey, District Manager, Dixon Resource Conservation District, Dixon CA

DECISION SUPPORT MODELING AS A TOOL TO HELP ADDRESS POTENTIAL LEGAL AND STAKEHOLDER CONFLICTS RELATED TO GSP DEVELOPMENT  
Aaron Mead, PhD, PE, Managing Engineer, Environmental & Earth Sciences Practice, Exponent, Pasadena, CA

**10:30 – 10:50 BREAK**

**10:50 – 11:50 Session 2**

**WINNING AGAINST THE BIG BOYS: MAKING SURE CHEMICAL MANUFACTURERS PAY THE COSTS OF TREATING CONTAMINATION, NOT YOUR RATEPAYERS**

Session moderator - Vic Sher, Attorney, Sher Edling LLP, San Francisco, CA

Session description and background

This session will concentrate on recent developments in holding manufacturers responsible for contamination of drinking water. It will cover significant cases, as well as emerging contaminants and thoughts on where the law is going next.

**HOW SUING MANUFACTURERS IS DIFFERENT FROM LAWSUITS AGAINST LOCAL POLLUTERS / RESPONSIBLE PARTIES – LAWYER'S PERSPECTIVE - Different Claims, Different Proof, Different Arguments to the Jury**

Vic Sher, Principal, Sher Edling LLP, San Francisco, CA

**HOW SUING MANUFACTURERS IS DIFFERENT FROM LAWSUITS AGAINST LOCAL POLLUTERS / RESPONSIBLE PARTIES – EXPERT'S PERSPECTIVE - Different Technical Subjects, Different Analyses, Different Testimony**

Gerry Beckett, Hydrogeologist & President, AQUI-VER, Inc., Park City, UT

11:50 – 12:20 Invited Presentation – Speaker to be confirmed

**12:20 – 1:20 LUNCH (provided)**

**1:20 – 2:40 Session 3**

**EMERGING GROUNDWATER QUALITY ISSUES** This session is “gonna be huge!”

Session Moderator – Anthony Brown, CEO, Aquilogic, Costa Mesa, CA

Session description and background:

Panelists will discuss emerging issues related to groundwater quality and pollution – from the impact of contamination on groundwater sustainability plans, through recent developments in Clean Water Act litigation related to groundwater, to approaches to addressing emerging contaminants – thoughts from the plaintiff and defense bar.

**SGMA STIGMA: THE IMPACT OF CONTAMINATION ON GROUNDWATER SUSTAINABILITY PLANS UNDER SGMA**

Steve Hoch, Partner, Attorney, Morris Polich & Purdy, Los Angeles, CA

**CORAL REEFS TO COAL ASH: RECENT DEVELOPMENTS IN CLEAN WATER ACT LITIGATION RELATED TO GROUNDWATER**

Frank Holleman, Senior Attorney, Southern Environmental Law Center, Chapel Hill, NC

**THE UNRETARDED RETARDANT: PERFLUORINATED COMPOUNDS IN GROUNDWATER.**

Scott Summy, Shareholder, Attorney, Baron and Budd, Dallas, TX

**EMERGING CONTAMINANTS IN THE LIBERAL-BIASED GROUNDWATER MEDIA – THOUGHTS FROM THE PLAINTIFFS BAR**

Mike Axline, Attorney, Miller Axline, Sacramento, CA

**THE ALTERNATIVE FACTS: EMERGING CONTAMINANTS IN GROUNDWATER - THE DEFENSE BAR PERSPECTIVE**

Gabriel Padilla, Of Counsel, Bick Law Group, Newport Beach, CA

**2:40 – 2:50 BREAK**

**2:50 – 4:20 Session 4**

**LEGAL ISSUES: CONJUNCTIVE USE OF SURFACE WATER AND GROUNDWATER**

Session Moderator, Bradley Herrema Attorney BHFS, Los Angeles CA

Session description and background:

Conjunctive use of surface water and groundwater is crucial for integrated water resources management. This panel will discuss two active groundwater banks, one urban and one agricultural, along with the development of a new groundwater bank in Southern California. Additional groundwater storage is critical to responding to more intense droughts and precipitation events. Some critical challenges and perspectives are discussed to help decision makers develop more effective management and adaptation strategies for conjunctive water resources in light of the uncertainties of climate change.

**LEGAL AND HYDRO ASPECTS OF STORAGE: THE 500,000 AF UNDER ACTIVE MANAGEMENT IN THE CHINO BASIN**

Peter Kavounas General Manager of Chino Basin Watermaster, Rancho Cucamonga, CA

**AGRICULTURAL RELIANCE ON THE SEMITROPIC GROUNDWATER STORAGE BANK**

Jason Gianquinto, General Manager, Semitropic Water Storage District, Wasco, CA

**OVERCOMING LEGAL ROAD BLOCKS TO LANDMARK WATER CONSERVATION, RECOVERY AND STORAGE PROJECT**

Scott Slater, Attorney, President, Cadiz, Los Angeles, CA

**4:20 – 4:30 Closing remarks and adjourn**

## San Francisco Groundwater Law Conference, 2017 - Presenter Professional Background



### **David Owen, Professor of Law, University of California, Hastings College of Law, San Francisco**

Professor Owen is a nationally recognized expert in Environmental Law and teaches courses in environmental, natural resources, water, and administrative law. Professor Owen's primary research emphasis is water resource management. He graduated from the University of California, Berkeley School of Law and from Amherst College.

Prior to entering academia, Professor Owen practiced with Rossmann and Moore, a San Francisco firm that specializes in complex water resource and land use litigation. His practice included work on major water allocation disputes involving the Sacramento/San Joaquin Bay-Delta and the Colorado River as well as the siting controversies surrounding the proposed Yucca Mountain nuclear waste repository. He clerked for Judge Samuel Conti of the United States District Court for the Northern District of California. Before law school, he worked as a geologist and regulatory compliance auditor for an environmental consulting firm.

### **Deb Kollars, Attorney, Best Best & Krieger, Sacramento, CA**



Deborah focuses on water, land use and environmental matters, and provides advisory, litigation and transactional services to cities, counties and public agencies. Her practice focuses heavily on helping public agencies implement the Sustainable Groundwater Management Act and water conservation regulatory actions. She is an associate in the firm's Environmental Law & Natural Resources and Municipal Law practice groups and is based in Sacramento.

Prior to joining Best Best & Krieger LLP, Deb was an associate with Remy Moose Manley, LLP, in Sacramento, focusing on land use and environmental law, including the California Environmental Quality Act. Before joining the legal profession, Deb worked as a journalist for the *Miami Herald* and *The Sacramento Bee*. During law school, Deb worked as a communications consultant to the State Water Contractors and also completed a legal internship with the Metropolitan Water District of Southern California. Deb is

licensed to practice law in the State of California and has a JD degree from University of the Pacific, McGeorge School of Law.

### **John Currey, AFM, District Manager, Dixon Resource Conservation District**



John has been District Manager since 2000. He oversees the operation and maintenance of a 70-mile agricultural drainage system. John is also responsible for managing the Dixon Regional Watershed Joint Powers Authority with three other local agencies, and implementing the Dixon / Solano RCD Agricultural Water Quality Coalition Program which provides individual landowners and producers a way to comply with the State's Irrigated Lands Regulatory Program. John is actively participating in the Groundwater Sustainability Agency formation process, where he and the District seek to provide a voice for all groundwater users. Prior to and since joining Dixon RCD, John has developed an extensive network with the local agricultural community. He has operated his own swine farm, managed agricultural operations on farms in seven counties in Central California, and served as an organic farm inspector for the California Certified Organic Farmers. John is a UC Davis Graduate with a BS Degree with a Major in Agricultural and Managerial Economics. He has also earned the Accredited Farm Manager designation from the American Society of Farm Managers and Rural Appraisers.

### **Aaron Mead, PhD, PE, Managing Engineer, Environmental & Earth Sciences Practice, Exponent, Pasadena, CA**



Dr. Mead has 21 years of experience solving a broad range of water resource engineering problems. He has expertise in water quality policy and in a range of surface water and groundwater modeling applications. He has expertise in California's water supply challenges, including surface water issues related to California's Bay-Delta estuary and groundwater issues related to California's Sustainable Groundwater Management Act (SGMA). Dr. Mead has employed a range of models in his projects, including HEC-RAS, MIKE 11, MODFLOW, Visual Plumes, and DYNTOX.

Dr. Mead is a Professional Engineer and has a M.S., Civil Engineering, Stanford University and a PhD from University of California, Los Angeles. He has taught courses in philosophy at the California Institute of Technology (Caltech), UCLA, and Azusa Pacific University. He is interested in the ethics of water management, including the role of values in water resource decision-making and the nature of water rights.

### **Vic Sher, Attorney, Sher Edling LLP, San Francisco, CA**



Vic Sher has spent his career developing and prosecuting extraordinary legal strategies to protect people and the planet. Over the past 30 years – including as a litigator, consultant, and leader of the world's largest public interest environmental law firm - Mr. Sher has achieved exceptional success on behalf of communities and non-governmental organizations against the world's most powerful polluters and largest law firms. Along with representing public agencies and organizations in active lawsuits, Mr. Sher consults on effective litigation strategies with government agencies, national and local non-profit organizations, and attorneys around the country.

From 1998 through 2011 Mr. Sher's practice focused solely on representing public water suppliers and other public agencies in lawsuits against the manufacturers of toxic chemicals that pollute sources of drinking water. He was a partner with Miller & Sher in Sacramento from 1998 through 2002, then founder and principal litigator with Sher Leff LLP in San Francisco from 2003 through 2011. He received his law degree in 1980 from Stanford Law School.

### **G.D. Beckett, Founder & President, Aqui-Ver, Inc., Park City, UT**



G. D. Beckett is a principal hydrogeologist at AQUI-VER, INC, providing specialized remediation design, environmental consulting and strategic technical review services to industrial, governmental and legal support clients. He was previously a research associate and instructed at San Diego State University where he investigated various aspects of multiphase contaminant hydrogeology, with a focus on multiphase flow as it pertains to contaminant transport, risk, and remediation. That work has extended to participation with regulatory work groups, the ASTM LNAPL decision guide (work group chair), and development of technical tools for the American Petroleum Institute and others. He has provided technical training workshops on multiphase contaminant principles to industry and regulatory agencies. These skills and knowledge have allowed Mr. Beckett to be a testifying and advising expert to litigation cases involving groundwater contamination issues for both water owners and responsible parties. The vast majority of the cases on which

he has worked have settled favorably for his clients, due in part, to application of rigorous scientific analyses and communication of those. Mr. Beckett is a California State Registered Geologist and Hydrogeologist.

### **Anthony Brown, CEO, aquilogic, Costa Mesa, CA**



Anthony is the founder, Chief Executive Officer (CEO) and Principal Hydrologist at aquilogic. Prior to aquilogic, he was the Chief Business Development Officer at exp, Senior Vice-President of Strategy & Development at WorleyParsons, and the global sector leader for their Environment business. He was previously the CEO and one of the founding principals at Komex Environmental, a global environmental consulting company

Anthony received his MS degree in Engineering Hydrology from Imperial College London. He has over 25 years of experience in many aspects of infrastructure engineering and environmental consulting, with a focus on hydrologic science, water resources, environmental engineering, and water treatment & supply. He has provided expert testimony in numerous "high -profile" cases involving emerging and recalcitrant chemicals in groundwater. He has also briefed the following on the impact of industrial chemicals on water resources: United States Environmental Protection Agency (US EPA) and State regulators; White House Officials; US State, and local elected officials and Professional bodies and academic institutions.

## San Francisco Groundwater Law Conference, 2017 - Presenter Professional Background

### Steve Hoch, Partner, Morris Polich & Purdy, Los Angeles, CA



Steven Hoch is the chair of the firm's Environmental Law Group. He has over 40 years of experience with both federal and state environmental laws and regulations in the context of permitting, regulatory proceedings, litigation, enforcement actions, water supply, public policy formation, and advice. His work includes contamination of land and ground and surface water. Steven has critical experience in the areas of environmental law and the federal and state Safe Drinking Water Acts, Title 23, water supply, and the mechanics of water distribution. His experience also extends to groundwater modeling and water quality testing. He also has significant experience in hazardous substances and waste handling practices, remediation, soil erosion, and claims of toxic exposures. Steven's clients range from the country's largest municipal water agency to individuals selling or buying contaminated sites. He has a Juris Doctor degree from Boston University School of Law and has court admissions at the United States Supreme Court, United States Court of Appeals for the Ninth Circuit and United States District Court for the Central, Eastern, Northern and Southern Districts of California

States Court of Appeals for the Ninth Circuit and United States District Court for the Central, Eastern, Northern and Southern Districts of California

### Frank Holleman, Senior Attorney, Southern Environmental Law Center, Chapel Hill, NC



Holleman is a senior litigating attorney at the Southern Environmental Law Center, where he has led the effort to litigate against power utilities over the disposal of coal ash, especially in the wake of the 2014 Dan River coal ash spill. Founded in 1986, SELC's team of more than 60 legal and policy experts represent more than 100 partner groups on issues of climate change and energy, air and water quality, forests, the coast and wetlands, transportation, and land use.

Frank is a former United States Deputy Secretary of Education. He graduated from Harvard Law School and served as a law clerk for Judge Harrison Lee Winter of the Fourth Circuit and Supreme Court Justice Harry Blackmun. He then worked as a partner at Wyche, Burgess, Freeman and Parham in Greenville, South Carolina. His academic achievements include: Furman University (B.A.), Harvard Law School (J.D.) London School of Economics (M.Sc.).

### Mike Axline, Attorney, Miller Axline, Sacramento, CA



Michael Axline is a partner in the Miller, Axline & Sawyer law firm in Sacramento, bringing cutting-edge toxic tort cases involving contamination of public water supply systems. Mike was a law professor at the University of Oregon for more than 15 years before joining Miller, Axline & Sawyer full-time in 2004. Mike founded the Western Environmental Law Center in 1993, a regional public interest environmental law firm with offices in Oregon, New Mexico, and Colorado. Mike filed the first lawsuit on behalf of the endangered spotted owl in the Pacific Northwest and has worked on cases involving endangered species, habitat destruction, water pollution, air pollution, forestry, grazing, toxic substances, pesticides, and other environmental issues. His book, Environmental Citizen Suits, is an invaluable resource for practitioners. Mike is a founder of the ELAW network and consults on ELAW legal projects.

### Brad Herrema, Attorney, Brownstein Hyatt Farber Schreck, Santa Barbara, CA



Brad's forte and long-term focus include strategic water supply planning, water right permitting and regulatory compliance, litigation including water right adjudications, transactional negotiations and due diligence, and water quality, environmental, and species concerns, spanning every aspect of California and national water law. A strategic business partner to his clients, Brad serves as special water counsel to private corporations, cities and special districts, investor-owned utilities and large landowners.

Brad has extensive experience in the development of new groundwater supplies in adjudicated and non-adjudicated basins, local groundwater management, groundwater storage and complex groundwater litigation. He is actively engaged in implementation of California's Sustainable Groundwater Management Act of 2014, including representation of groundwater sustainability agencies, development of groundwater sustainability plans, and protection of water users' water rights and reliable access to groundwater supplies. Brad serves as counsel to the Chino Basin Watermaster. He has a Juris Doctor Degree from the University of Michigan Law School.

### Peter Kavounas, PE, General Manager, Chino Basin Watermaster, Rancho Cucamonga, CA



Mr. Kavounas has over 25 years of experience and has worked for the Los Angeles Department of Water and Power as the Eastern Sierra Environmental Issues Manager, and for the City of Glendale's Water and Power Department as the Assistant General Manager-Water Services. Mr. Kavounas was elected to the Castaic Lake Water Agency Board of Directors in 1998 and served for fifteen years holding various positions including the office of Board President.

Mr. Kavounas has a Bachelor of Science degree in Civil Engineering from the University of Minnesota, a Master of Engineering-Structural from UC Berkeley, and a Master of Science-Water Resources from USC. He is also a graduate of Leadership Southern California Class XII, and is a licensed Professional Engineer in the State of California.

As the General Manager, Mr. Kavounas oversees all aspects of the organization: meeting obligations to the Judgment and other Court Orders, implementation of the Optimum Basin Management Program, compliance with all regulatory requirements, and business

practices.

### Jason Gianquinto, General Manager, Semitropic Water Storage District, Wasco, CA



Jason Gianquinto joined the Semitropic Water Storage District as the Deputy General Manager in 2010 and was named General Manager in 2013. Semitropic, established in 1958, is one of eight water storage districts in California and covers an area of more than 220,000 acres in Kern County. The District delivers surface water to approximately 140,000 acres for agricultural uses and provides groundwater storage services to Banking Partners in both Northern and Southern California. Mr. Gianquinto is actively involved in Kern County Water Issues through his participation as a Director of the Kern County Farm Bureau, Board member of the Kern Water Bank Authority, Trustee of the Southern California Water Committee and has served as President of the Water Association of Kern County. Mr. Gianquinto is a licensed civil engineer in the States of California and Arizona with focused professional engineering experience in the water and wastewater industry. Jason has a Bachelor of Science degree in Environmental Engineering from Northern Arizona University, a Master of Science in Engineering Management and a Master of Business Administration from Cal Poly San Luis Obispo.

### Scott Slater, Attorney, President, Cadiz Inc., Los Angeles, CA



Scott Slater is the Company's President and Chief Executive Officer, appointed to the role of President in April 2011 and CEO in February 2013. In addition, Mr. Slater has been a member of the Company's Board of Directors since February 2012. Mr. Slater is an accomplished negotiator and litigator and, in addition to his role at the Company, is a partner in Brownstein Hyatt Farber Schreck, the nation's leading water practice firm. For 27 years, Mr. Slater's practice has been limited to litigation and the negotiation of agreements related to the acquisition, distribution, and treatment of water. He has served as lead negotiator on a number of important water transactions, including the negotiation of the largest conservation-based water transfer in U.S. history on behalf of the San Diego County Water Authority. Mr. Slater is also the author of California Water Law and Policy, the state's leading treatise on the subject, and has taught water law and policy courses at University of California, Santa Barbara, Pepperdine University, and the University of Western Australia, among others.